

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHEL ERIC BENNOUCHENE,

Plaintiff,

v.

VIDEOAPP, INC.,

Defendant.

Civil Action No. 19 CV 6318 (GBD)

**NOTICE OF MOTION FOR AN AWARD OF COSTS TO DEFENDANT
PURSUANT TO FED. R. CIV. P. 68 AND 15 U.S.C. § 505**

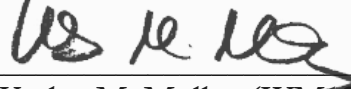
PLEASE TAKE NOTICE that the undersigned attorney for Defendant Videoapp, Inc. (“Defendant”) will move before the Honorable George B. Daniels, United States District Judge, at the United States Courthouse located at 500 Pearl Street, New York, New York for an Order awarding Defendant costs and attorney fees pursuant to Fed. R. Civ. P. 68 and 17 U.S.C. § 505, along with such other relief as the Court may deem just and proper.

Defendant’s motion will be based upon this notice of motion, the accompanying memorandum of law, the accompanying declaration of Wesley M. Mullen, Esq., exhibits to the foregoing declaration, all pleadings in this action, and such additional oral or documentary evidence as may be received prior to or at a hearing.

The motion is based on an unaccepted Rule 68 offer. Defendant is entitled to an award of costs because the relief obtained by Plaintiff, who voluntarily dismissed his action to avoid a dismissal on the merits, “is not more favorable than the unaccepted [Rule 68] offer.” Fed. R. Civ. P. 68. Costs include attorney fees under the Copyright Act. 17 U.S.C. § 505.

DATED: October 7, 2019
New York, New York

MULLEN P.C.

A handwritten signature in black ink, appearing to read 'Wesley M. Mullen', is written over a horizontal line.

Wesley M. Mullen (WM1212)

Mullen P.C.

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